



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/672,197	09/28/00	GOLDBERG	J 257/292

022249
LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES CA 90071

QZ11/0831

EXAMINER

CROW, S

ART UNIT

PAPER NUMBER

3764

6

DATE MAILED: 08/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/672,197

Applicant(s)

GOLDBERG, JOHNNY

Examiner

Stephen R. Crow

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-58 is/are pending in the application.
- 4a) Of the above claim(s) 37,45,46,51,52 and 58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input checked="" type="checkbox"/> Other: <i>Detailed Action</i> . |

Art Unit:

DETAILED ACTION

Election/Restriction

1. Claims 37,39,45,46,51,52,58 * are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

* The examiner does not understand applicant's election grouping. It appears that all claims read on figure 8 with the exception of those directed towards a central ground support.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 23-28,33,36-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 states convention non-stationary bicycle assembly, however the pedal assembly shown in the drawings is a conventional stationary bicycle pedal assembly.

Claims 24-28 refer to detachable components, however structure for achieving "detachment" has not been claimed, rather merely the capability thereof.

Art Unit:

Claim 33 does not further limit the claims.

Claims 36-39 recite "substantially as shown in figure 8". These claims are considered incomplete and inoperative because additional structure is required. Furthermore, the metes and bounds of patent protection cannot be properly ascertained.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for detaching the pedals, ground support elements, cable resistance braking system must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17-35 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aalto in view of McCoy.

Aalto shows all of applicant's claimed stationary exercise frame with the exception of the particular type of handlebars.

Art Unit:

McCoy discloses a variety of velocipede handle bars including one having inner circular handle (fig 3). Note the outwardly directed lateral bar and the prongs having handle ends.

In view of McCoy , it would have been obvious to substitute the McCoy handlebar for the Aalto handlebar for a desired change in arm position during exercise riding. It would have been obvious to one of ordinary skill in the art to align the McCoy or Aalto type handlebars such that the ends of the prongs point in a forward direction. Handlebars are typically attached to bicycles so that this can be achieved. It is common knowledge to rotate the handlebars to change their orientation and therefore minimize fatigue and has been done for decades.

As to claims 23-28 , typically telescoping tubes are detachable as are cranks, pedals, and ground supports for shipping purposes.

7. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aalto in view of McCoy as applied to claim 21 above, and further in view of Corwin.

The use of clipless pedals is well recognized in the art and would have been an obvious equivalent design choice in the Aalto bike.

8. Claims 36,38,49,55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corwin in view of Aalto and McCoy.

Corwin discloses a bike having adjustable handlebars, seat support, and a frame having singular diagonal member 10 which connects the front handlebar post to the rear seat post.

Aalto shows an exercise frame having seat adjustment similar to applicant's claimed invention. In view of Aalto, it would have been obvious to one skilled in the exercise art to provide

Art Unit:

the Corwin bike with a seat having fore-and-aft adjustability for accommodating different sized users.

McCoy discloses a variety of velocipede handle bars including one having inner circular handle (fig 3). Note the outwardly directed lateral bar and the prongs having handle ends.

In view of McCoy , it would have been obvious to substitute the McCoy handlebar for the Corwin handlebar for a desired change in arm position during exercise riding. It would have been obvious to one of ordinary skill in the art to align the McCoy type handlebars such that the ends of the prongs point in a forward direction. Handlebars are typically attached to bicycles so that this can be achieved. It is common knowledge to rotate the handlebars to change their orientation and therefore minimize fatigue and has been done for decades

9. Claims 41,42,44,47,48,50,53,54,56,57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corwin in view of Aalto.

Note the remarks above. As to claim 44 , the examiner contends that the Corwin diagonal member extends horizontally beyond the rear socket and connects to the rear leg (rear ground support).

As to claim 48, even single handlebars have two handles, one for the left hand and the other one for the right hand.

10. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corwin in view of Aalto as applied to claim 42 above, and further in view of McCoy.

Art Unit:

McCoy discloses a variety of velocipede handle bars including one having inner circular handle (fig 3). Note the outwardly directed lateral bar and the prongs having handle ends.

In view of McCoy , it would have been obvious to substitute the McCoy handlebar for the Corwin handlebar for a desired change in arm position during exercise riding. It would have been obvious to one of ordinary skill in the art to align the McCoy type handlebars such that the ends of the prongs point in a forward direction.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Crow whose telephone number is (703) 308-3398.



STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332